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Fox Broadcasting Company*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

4KIDS ENTERTAINMENT, INC.,

Plaintiff

-against-

FOX BROADCASTING COMPANY,

Defendant.

No. 08-CV-4865 (GBD/AJP)

**INITIAL DISCLOSURES
OF DEFENDANT FOX
BROADCASTING COMPANY**

Pursuant to Fed.R.Civ.P. 26(a), defendant Fox Broadcasting Company (“Fox”) hereby makes its initial disclosures:

Rule 26(a)(1)(A)(i)

The following are names and addresses of individuals whom Fox may call to support the defenses set forth in the Answer and the allegations of the Counterclaims.

1. Individuals at Fox

The following individuals are employed or were formerly employed by Fox and have knowledge of the defenses to the claims alleged in the Complaint, as well as facts and circumstances alleged in the Answer and Counterclaims, including but not limited to, the terms and conditions of the agreements at issue, the broadcast “clearance” levels achieved by Fox for 4Kids Entertainment, Inc.’s (“4Kids”) programming throughout the parties’ contractual

relationship, 4Kids' anticipatory breach of contract, 4Kids' breach of contract, 4Kids' agreements to the broadcasting of its programs in several Designated Market Areas ("DMAs") at times other 8 a.m. to 12 p.m. eastern and Pacific Time and 7 a.m. to 11 a.m. Central and Mountain Time, and 4Kids' practice of agreeing to make-good broadcasts where preemptions were necessary. These individuals are only to be contacted through their counsel, Reed Smith LLP.

- **Jon Hookstratten (Executive Vice President, Network Distribution)**
- **Mark Lipps (Vice President, Network Distribution)**
- **Nicole Lawson (Director, Network Distribution)**
- **Ira Kurgan (Chief of Network Business Operations)**
- **Inae Joe (Vice President, Network Distribution)**
- **Wendy Chambers (Director, Network Distribution)**
- **Karen Earls, Esq. (Vice President, Legal Affairs, Network Distribution)**
- **Minna Taylor, Esq. (Senior Vice President, Legal Affairs)**
- **Susan Chalfant (Former Director, Sports and Children's Programming)**
- **Diana Wilkin (Former Senior Vice President & President of Network Distribution)**
- **Ed Wilson (Former President, Fox Television Network)**
- **Sue Kiel (Former Network Distribution Representative)**
- **Robynn Delgado, (Former Director, Network Distribution)**
- **Liz Ramirez (Former Manager, Network Distribution)**
- **Robert E. Quicksilver (Former President, Network Distribution)**

2. Individuals at 4Kids

Upon information and belief, the following individuals are employed by Plaintiff 4Kids and have knowledge of the facts and circumstances concerning Fox's defenses to the claims alleged in the Complaint, as well as facts and circumstances alleged in the Answer and Counterclaims, including but not limited to, 4Kids' anticipatory breach of contract, 4Kids' breach of contract, 4Kids' agreements to the broadcasting of its programs in several DMAs at times other than 8 a.m. to 12 p.m. eastern and Pacific Time and 7 a.m. to 11 a.m. Central and Mountain Time, and 4Kids' practice of agreeing to make-good broadcasts where preemptions were necessary. The addresses of these individuals are known to 4Kids.

- **Samuel Newborn (Executive Vice President & General Counsel)**
- **Daniel Barnathan (President, 4Kids Ad Sales, Inc.)**
- **Norman Grossfeld (President, 4Kids Entertainment, Inc.)**
- **Al Kahn (Chief Executive Officer)**
- **Laura Cohen (4Kids Productions Programming, & Scheduling)**
- **Jeff Blankman (Vice President, On-Air Promotions)**

3. Third Parties

Upon information and belief, the following individuals are not employed by either Plaintiff or by Fox, and have knowledge of the facts and circumstances concerning Fox's defenses to the claims alleged in the Complaint, as well as facts and circumstances alleged in the Answer and Counterclaims, including but not limited to, 4Kids' anticipatory breach of contract, 4Kids' breach of contract, 4Kids' agreements to the broadcasting of its programs in several DMAs at times other than 8 a.m. to 12 p.m. eastern and Pacific Time and 7 a.m. to 11 a.m. Central and Mountain Time, and 4Kids' practice of agreeing to make-good broadcasts where preemptions were necessary. The address of this individual is not presently known.

- **Joseph Garrity (Former Chief Operations Office and & Chief Financial Officer, 4Kids)**

Rule 26(a)(1)(A)(ii)

Each category of documents constitutes or concerns the agreements referred to in the Complaint and the Answer and Counterclaims and will be made available for inspection and copying through Reed Smith LLP upon request.

- The January 18, 2002 "Term Sheet" entered into between the parties, as well as amendments thereto and notifications of the exercise of options thereunder
- Correspondence between the parties reflecting their course of dealing under the Term Sheet (as amended) and their interpretation of the meaning thereof
- Correspondence reflecting 4Kids' agreements to the broadcasting of its programs in several DMAs at times other than 8 a.m. to 12 p.m. eastern and Pacific Time and 7 a.m. to 11 a.m. Central and Mountain Time
- Correspondence reflecting the parties' accepted practice of utilizing make-good broadcasts of 4Kids' programming in the event that a scheduled broadcast had to be

preempted, and of the parties acceptance of those make-good broadcasts toward the clearance calculation

- Documents reflecting the “clearance” rates achieved by Fox for the broadcasting of 4Kids’ programming
- Internal correspondence
- Correspondence with third parties

Rule 26(a)(1)(A)(iii)

As per the terms of the parties’ contract, Fox’s damages are presently \$30 million (plus pre- and post-judgment interest as provided under New York law), which figure is derived as follows: (i) \$5 million representing an installment payment due under the parties’ contract which 4Kids failed to pay on April 1, 2008; (ii) \$5 million representing an installment payment due under the parties’ contract which 4Kids failed to pay on and July 1, 2008; (iii) \$20 million representing four (4) \$5 million installment payments due under the parties’ contract on October 1, 2008, January 4, 2009, April 1, 2009, and July 1, 2009, respectively.

Rule 26(a)(1)(A)(iv)

Not applicable.

Rule 26(a)(2)

As of this writing, no expert has been retained, but Fox reserves the right to supplement these disclosures if it should decide to retain one.

Please be advised that Fox reserves the right to supplement these disclosures as provided by the Federal Rules of Civil Practice.

Dated: New York, New York
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REED SMITH LLP

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